# REMARKS

Claims 1-13 and 15-17 were presented and examined. In response to the Final Office Action, Claims 1, 5, and 17 are amended, no claims are cancelled and no claims are added. Applicants respectfully request reconsideration of pending claims in view of the above amendments and the following remarks.

## I.   Claims Rejected Under 35 U.S.C. § 103

**Claims 1, 3, 5, 6, 9, and 17** are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,487,723 to MacInnis ("MacInnis") in view of U.S. Publication 2005/0064859 to Kotzin et al. ("Kotzin"). We respectfully traverse this rejection.

Claims 1 and 17 are amended to recite "...to provide an upgraded interactive data broadcasting application; and a mobile terminal accessing component to access a mobile communication network based on the downloadable data, and, in response to a user request for accessing a mobile communication network, executing the upgraded interactive data broadcasting application to provide the interactive service to the user using the mobile terminal accessing component to access a mobile communication network." In addition, Claim 5 is amended to recite "c) upgrading the software according to the kind of the downloadable data to provide an upgraded interactive data broadcasting application;...and e) executing the upgraded interactive data broadcasting application if the user is authenticated to provide the interactive service to the user using the mobile terminal accessing component to access the mobile communication network." Support for such amendment is provided with reference to FIG. 4.

While Applicant's argument here is directed to the cited <u>combination</u> of references, it is necessary to first consider their individual teachings, in order to ascertain what combination (if any) could be made from them.

MacInnis teaches a system for downloading different versions of software modules into a plurality of subscriber's terminals having different compatibility interfaces. MacInnis teaches a downloading source that transmits descriptor tables to each terminal and continuously transmits

the software modules over the network so that each terminal can extract the descriptor table. Each terminal, based on a match between an entry in the descriptor table and an internally stored table, determines which version of a particular software module should be downloaded.

MacInnis does not teach the limitation, "a mobile terminal accessing component to access a mobile communication network based on downloadable data and, in response to a user request for accessing a mobile communication network, executing the upgraded interactive data broadcasting application to provide the interactive service to the user using the mobile terminal accessing component to access the mobile communication network," as in Claim 1. The Examiner cites Kotzin to teach the mobile terminal accessing component of Claim 1. The Examiner argues that Kotzin teaches this limitation because Kotzin teaches a wireless subscriber device that requests and receives software, such as programs and upgrades, using a cellular network.

Kotzin relates to a server-based system for backing up memory of a wireless subscriber device. Kotzin describes a method for creating an archived representation of a memory image in a backup server; modified representations of the memory images are scanned for abnormalities such as viruses or malicious files, where a memory of a wireless device is restored using an archived representation when abnormalities are detected (see Abstract). In contrast with Claim 1, Kotzin does not teach a mobile terminal accessing component to access a mobile communication network based on the downloadable data, and in response to a user request for accessing the mobile communication network, executing the upgraded interactive data broadcasting application to provide an interactive service to the user using the mobile terminal accessing component to access a mobile communication network.

Although capable of requesting and receiving downloads, the wireless communication system of Kotzin is designed to scan modified representations of memory images for abnormalities and use an archived representation of the memory image when such abnormalities are detected (see Abstract). It is improper for the Examiner to rely on Kotzin since the backup processes described by Kotzin do not provide an interactive service in response to a user request to access a mobile communication network based on downloadable data by executing the

upgraded interactive data broadcasting application and provide the interactive service using the mobile terminal accessing component to access a mobile communication network.

Hence, the Examiner has failed to identify, and we are unable to discern, any portion of MacInnis in view of Kotzin that teaches or suggests "a mobile terminal accessing component to access a mobile communication network based on the downloadable data, and, in response to a user request for accessing a mobile communication network, executing the upgraded interactive data broadcasting application to provide the interactive service to the user using the mobile terminal accessing component to access a mobile communication network," as in Claim 1.

Furthermore, as established by case law, "a reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be lead in the direction divergent from the path that was taken by the applicant." Ricoh Co. Ltd. v. Quanta Computer Inc., 550 F.3d 1325, 1332 (Fed. Cir. 2008 (quoting In re Kahn, 441 F.3d 977, 990 (Fed. Cir. 2006)). The system of MacInnis explicitly avoids the need for two-way communication between each terminal and the downloading source. (See Abstract.) As a result, MacInnis teaches away from a mobile terminal accessing component that, in response to a user request for accessing the mobile communication network, executes an upgraded interactive data broadcasting application to provide an interactive service to the user using the mobile terminal accessing component to access the mobile communication network. Since the system of MacInnis avoids the need for two-way communication between each terminal and the downloading source, MacInnis cannot provide an interactive service to the user using the mobile terminal accessing component to access the mobile communication network. We submit that without two-way communication between each terminal and the downloading source, MacInnis teaches away from executing the upgraded interactive data broadcasting application to provide an interactive service to a user by accessing a mobile communication network based on downloadable data in response to a user request for accessing the mobile communication network, as in Claim 1.

For each of the above reasons, therefore, Claim 1 and all claims which depend from Claim 1 are patentable over the combination of MacInnis in view of Kotzin, as well as the references of record.

Each of Applicants' other independent claims contains limitations similar to those in Claim 1. Therefore, all of Applicants' other independent claims, and all claims which depend on them, are patentable over the cited art, for similar reasons.

Regarding Claims 5 and 17, Claims 5 and 17 are amended to recite executing an interactive data broadcasting application if the user is authenticated. This feature of Claims 5 and 17 are similar to the features of Claim 1 recited above. Therefore, Claims 5 and 17 are also patentable over MacInnis in view of Kotzin for similar reasons.

**Claims 2, 4, 7, 8, and 10-12** are rejected under 35 U.S.C. § 103(a) as being unpatentable over MacInnis in view of Kotzin, and further in view of U.S. Patent No. 6,941,341 issued to Logston et al. ("Logston"). Also, **Claim 13** is rejected under 35 U.S.C. § 103(a) as being unpatentable over MacInnis, Kotzin, and Logston, as applied to claim 10 above, and further in view of U.S. Patent No. 6,078,951 issued to Pashupathy et al. ("Pashupathy"). In addition, **Claims 15 and 16** are rejected under 35 U.S.C. § 103(a) as being unpatentable over MacInnis in view of Kotzin as applied to claim 14 above, and further in view of U.S. Patent No. 6,237,039 issued to Perlman et al. ("Perlman"). We respectfully traverse these rejections.

Regarding Claims 2, 4, 7, 8, 10-13, 15, and 16, Claims 2, 4, 7, 8, 10-13, 15, and 16 depend form Claims 1 and 5, respectively, and incorporate the limitations thereof. Thus, for at least the reasons previously discussed, MacInnis and Kotzin fail to disclose at least the element of responding to a user request for accessing a mobile communication network, executing the upgraded interactive data broadcasting application to provide the interactive service to the user using the mobile terminal accessing component to access the mobile communication network. The Examiner has further not pointed to, and Applicants are unable to discern, any portion of Logston, Pashupathy, or Perlman that teaches or suggests this element. Since each element of Claims 2, 4, 7, 8, 10-13, 15, and 16 are not disclosed by the cited prior art references, a *prima facie* case of obviousness in view of Kotzin and MacInnis in view of Logston, Pashupathy, or Perlman may not be established. We request reconsideration and withdrawal of the rejection of Claims 2, 4, 7, 8, 10-13, 15, and 16 under 35 U.S.C. §103.

DEPENDENT CLAIMS

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.
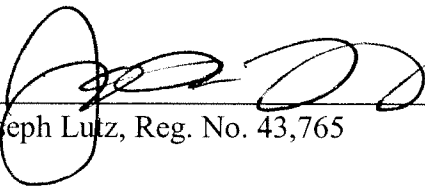
## CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

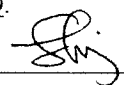Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: __November 3, 2009__   By: _____
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**CERTIFICATE OF TRANSMISSION**
I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on November 3, 2009.

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